

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

Thomas J. Henry,

Plaintiff,

vs.

Andrew Saul, Commissioner  
of Social Security Administration,

Defendant.

Civil Action No. 9:19-3123-RMG

**ORDER**

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on January 4, 2021, recommending that the decision of the Commissioner be reversed and remanded to the agency because the Administrative Law Judge ("ALJ") failed to properly evaluate and weigh the opinions of the Plaintiff's treating and examining physicians in accord with the requirements of the Treating Physician Rule, 20 C.F.R. § 404.1527(c), and to set forth "good reasons" for providing limited weight to their opinions. (Dkt. No. 18 at 11-19). The ALJ further failed to evaluate the opinions of the non-examining and non-treating physicians under the standards of the Treating Physician Rule, which includes consideration of whether the chart reviewers had access to the full medical record and the opinions of the claimant's treating and examining physicians. § 404.1527(c)(3) (In weighing the opinions of nonexamining physicians,

“we will evaluate the degree to which these medical opinions consider all pertinent evidence in your claim, including medical opinions of treating and other examining sources.”). The Commissioner has advised the Court he will not file an objection to the R & R. (Dkt. No. 19).

The Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order. Since Plaintiff’s application for disability benefits has been pending now for over five years, the Commissioner is directed to schedule another administrative hearing in this matter within 120 days of this Order and to issue a final agency decision within 180 days of this Order.

**AND IT IS SO ORDERED.**

S/ Richard Mark Gergel  
Richard Mark Gergel  
United States District Judge

Charleston, South Carolina  
January 18, 2021